

Regular Session, 2010

HOUSE BILL NO. 1449

BY REPRESENTATIVE FANNIN

WATER/RESOURCES: Provides with respect to recognizing the right of riparian owners to transfer their rights to access to running water for agricultural or aquacultural purposes and to provide for transfer for agricultural and aquacultural use by public entities

1 AN ACT

2 To enact R.S. 9:1103, relative to the right of riparian owners; to provide for the assignment
3 of rights to access the running waters of the state; to provide for the transfer for
4 agricultural and aquacultural use by public entities; to prohibit fees charged by the
5 state; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:1103 is hereby enacted to read as follows:

8 §1103. Riparian owners, use of surface water; fees prohibited; legislative finding
9 and intent

10 A. The Legislature of Louisiana finds that waters used in agricultural or
11 aquacultural pursuits are not consumed, rather they are merely used, and the
12 movement of the water ultimately provides value to the resource in several ways as
13 these uses provide for additional pathways for integration of the water into the
14 hydraulic cycle. Some of these value adding processes include recharging aquifers
15 by percolation into the groundwater, entry into the cycle as water vapor through the
16 evaporation from movement of the surface water, from the absorption into crops,
17 providing nourishment to living organisms that indirectly support agriculture and
18 aquaculture, from the hydration of livestock, and also through providing habitat and
19 sustenance for the fish and wildlife resources of the state. The direct and indirect
20 effects that result from these uses, bringing a positive impact on the resource and the
21 environment that yields a value far in excess of the value of the resource as mere

1 running water, and as such the Legislature of Louisiana specifically finds that there
2 is no prohibited donation by agricultural and aquacultural uses of these sorts.

3 B. A riparian owner may assign access rights equal to his own for the surface
4 water adjacent to his riparian land for any agricultural or aquacultural purpose within
5 the state of Louisiana by the non-riparian owner without restriction as to the form
6 of any such agreement to another. Provided that such withdrawal of running surface
7 waters is environmentally and ecologically sound and is consistent with the required
8 balancing of environmental and ecological impacts with the economic and social
9 benefits found in Article IX, Section 1 of the Constitution of Louisiana of 1974. No
10 riparian owner shall authorize such withdrawal of running waters for non-riparian
11 use where such would significantly adversely impact the sustainability of the water
12 body; or have undue impacts on navigation, public drinking water supplies, stream
13 or water flow energy, sediment load and distribution, and on the environment and
14 ecology balanced against the social and economic benefits of a contract of sale or
15 withdrawal, or sale of agreement or right to withdraw running surface water for
16 agricultural and aquacultural purposes.

17 C. For purposes of this Section, "agricultural or aquacultural purpose" means
18 any use by a riparian owner or an assignee of a riparian owner of running surface
19 waters withdrawn and used for the purpose of directly sustaining life or providing
20 habitat to sustain life of living organisms that are customarily or actually intended
21 to be brought to market for sale.

22 D. The state shall not charge any fee for such usage, except where the state,
23 including its political subdivisions, contracts or assigns rights for withdrawal as
24 provided for in Subsection B of this Section.

25 Section 2. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Fannin

HB No. 1449

Abstract: Provides for the right of riparian owners to assign their rights to access the running waters of the state to others, transfer for agricultural and aquacultural use by public entities, and to prohibit any fees charged by the state.

Proposed law allows a riparian owner to assign access rights for surface water adjacent to his riparian land for any agricultural or aquacultural purpose by the non-riparian owner provided such withdrawal of running surface water is environmentally and ecologically sound, would not adversely impact the sustainability of the water body, or have undue impacts on navigation, public drinking water supplies, stream flow energy, sediment load and distribution, and certain other circumstances.

Proposed law provides for the definition of "agricultural or aquacultural purpose".

Proposed law prohibits any state fee from being charged for usage except where the state contracts or assigns rights for withdrawal.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 9:1103)